



Homeless Education Policy and Procedures

Adopted 11/04/02

Policy

It is the policy of the board to ensure that homeless children and youth are provided with equal access to its educational programs, have an opportunity to meet the same challenging State of Wisconsin and MMSD academic standards, are not segregated on the basis of their status as homeless and to establish safeguards that protect homeless students from discrimination on the basis of their homelessness.

Definition of Homeless Children and Youth

The term "homeless children and youths" means individuals who lack a fixed, regular, and adequate nighttime residence due to economic hardship.

It includes children and youths who:

- are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason
- are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodations
- are living in emergency shelters
- are abandoned in hospitals; or are awaiting foster care placement
- have a nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings
- are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
- runaway children or children who are abandoned

Migratory children and unaccompanied youth (youth not in the physical custody of a parent or guardian) may be considered homeless if they meet the above definition.

Homeless status is determined in cooperation with parents or in the case of unaccompanied youth the local educational agency liaison. Homeless status may be documented through a variety of MMSD forms such as Homeless Education Program: School Selection Form and/or through direct contact with MMSD staff.

Procedure

School Selection

Placement in a school shall, according to the child's best interest,

- Continue the child's or youth's education in the school of origin for the duration of homelessness, in any case in which a family becomes homeless between academic years

or during an academic year, or for the duration of the academic year, if the child or youth becomes permanently housed during an academic year

- Enroll the child or youth in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend
- Parents/guardians may request their child attend any school in the Madison Metropolitan School District and to the extent feasible the MMSD will try to comply with these requests.

In determining the best interests of the child or youth to the extent feasible the child or youth will be kept in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian, for the duration of homelessness.

In the case of unaccompanied youth, the local educational agency liaison or designee will assist in placement or enrollment decisions considering the requests of such unaccompanied youth.

The school of origin means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or guardian or has been temporarily placed elsewhere.

The MMSD internal transfer policy shall not be applied to homeless children or youth for purposes of school selection or continued school placement. (Policies 4021 - 4023)

School selection may be documented through a variety of MMSD forms such as Homeless Education Program: School Selection Form and/or through direct contact with MMSD staff.

Enrollment

The school selected shall immediately enroll the child/youth, even if the child or youth lacks records normally required for enrollment. Records will immediately be requested from the previous school.

The terms "enroll" and "enrollment" are defined to mean attending school and participating fully in school activities.

Residency

A homeless child or youth is a resident if the child is personally present somewhere within the district with a purpose to remain but not necessarily to remain permanently.

The child or youth shall be considered a resident when living with a parent, guardian, or person in loco parentis not solely for school purposes or for participation in extra curricular activities.

Homeless students who do not live with their parents or guardians may enroll themselves in school.

The address listed on the enrollment forms becomes proof of residency.

Guardianship

For purposes of school placement, any parent, guardian or person in loco parentis who has legal

or physical custody of a homeless child or youth shall enroll that child or youth directly in an MMSD school.

Once a child or youth is enrolled in and attending a school, MMSD Guardian Responsibilities form must be completed within a reasonable period of time for those children or youth who are not accompanied by a parent or guardian.

Comparable Services

Each homeless child or youth shall be provided services comparable to services offered to other students in the school selected, such as

- Preschool programs
- Transportation services
- Educational services for which the child or youth meets eligibility criteria such as ESL or special education programs
- Programs for "At Risk" students
- Programs for gifted and talented students
- School nutrition programs
- Title I services
- After School programs

Transportation

At the request of the parent, or in the case of an unaccompanied youth, the local agency liaison or designee, transportation will be provided for homeless children to the school of origin, school of attendance area or school requested, for the duration of the school year.

Once permanent housing is found the family has a choice to stay in the school they are attending, school of origin or attend the school where they have found housing. If a family chooses to stay in the school of origin transportation will be provided in the form of Metro bus tickets. For a kindergarten through fifth grade student, for school transportation purposes, bus tickets can be provided to both a parent/guardian and child or youth.

Permanent housing is defined as any signed lease or long-term approved living situation. Self-paying day to day in a motel is not considered permanent housing.

In the case where the school of origin and current residence are different LEA's, the two school districts will agree on a method for transportation and share costs.

Local Educational Agency Liaison

The Director of Alternative Programs will be the Local Educational Agency Liaison for homeless children and youths.

The Local Educational Agency Liaison or designee shall ensure that:

- homeless children and youths are voluntarily identified by school personnel and through coordination with other entities and agencies
- homeless children and youth enroll in and have a full and equal opportunity to succeed in schools in the district.

- homeless families, children, and youths receive educational services for which they are eligible and referrals to other appropriate services.
- the parents or guardians of homeless a child and any unaccompanied homeless youth is informed of the educational and related opportunities available to them and are provided with meaningful opportunities to participate in the education of the child/youth.
- public notice of the educational rights of homeless children and youths is disseminated in such public places as schools, meal sites, shelters and other locations frequented by low income families.
- compliance with all policies and procedures and mediate enrollment disputes
- the parents or guardians of a homeless child or youth, and unaccompanied youth, are informed of all transportation services, including transportation to the school of origin or to the school that is selected
- coordination of services between MMSD and other homeless family service providers.
- assistance is provided to children and youth who do not have immunizations, or immunization or medical records, to obtain necessary immunizations, or immunization or medical records.
- students are not segregated on the basis of their status as homeless
- programs for homeless students are coordinated with other federal and local programs

Disputes

If a dispute arises over school selection or enrollment in a school, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.

The Local Educational Liaison shall carry out the dispute process as expeditiously as possible after receiving the notice of the dispute.

Appeals will go to the appropriate Assistant Superintendent. The parent or guardian of the child or youth, or unaccompanied youth shall be provided with a written explanation of the appealed decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision to the Office of Coordinator for Education of Homeless Children and Youths in the Wisconsin Department of Public Instruction.

Homeless/Transitional Education Program Home Page



[|District Info|](#) [|Parent Info|](#) [|Instructional Support|](#) [|Departments|](#) [|Home|](#)

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*This fact sheet has been developed by the National
Law Center on Homelessness and Poverty*

The McKinney-Vento Act requires all state and local educational agencies to develop, review and revise their policies to remove barriers to the enrollment and retention in school of children and youth experiencing homelessness. This sample LEA policy is designed to help school districts comply with this mandate. The policy was adapted from the existing policies of LEAs around the country, the requirements of the reauthorized McKinney-Vento Act and Elementary and Secondary Education Act (ESEA), and U.S. Department of Education regulations and guidance. It is broad and specific and can be abbreviated or otherwise adapted to accommodate the needs of any LEA.

The entire LEA community can be involved in developing a new policy. Often, one person taking the lead is enough to get a new policy enacted. Strategic allies in getting LEA policies revised may include:

- superintendent and assistant superintendents;
- school board members;
- Title I and other federal programs directors;
- school staff, including school counselors, social workers and teachers;
- the mayor;
- city council members;
- county government officials;
- other city and county agencies, such as departments of housing, social services, child and families, transitional assistance, welfare and/or Medicaid;
- parents and students;
- homeless coalitions;
- domestic violence coalitions and agencies;
- legal aid attorneys;
- community advocates;
- HUD continuums of care;
- family and youth shelter and service providers;
- the faith-based community;

- higher education, including schools of education, law, public policy, social work, nursing, sociology and psychology;
- state legislators;
- the state educational agency; and
- the state board of education.

Ways to involve these allies in the process initially may include:

- using the requirements and rationale of the McKinney-Vento Act as support for needing new policies;
- sharing positive results from districts that have already revised their policies;
- taking them on tours of shelters and/or schools, as appropriate; and
- making direct personal contact and explaining how the policies affect real children, schools, and the LEA as a whole.

For more information about revising LEA policies or state laws, contact:

Patricia Julianelle
National Law Center on Homelessness & Poverty
(202) 638-2535
julianelle@nlchp.org.

Every state is required to have a coordinator for the education of homeless children and youth, and every school district is required to have a liaison for homeless students. These individuals will assist you with the implementation of the McKinney-Vento Act. For information on the education of children and youth experiencing homelessness in Texas and to obtain contact information for the liaison in your district, please contact:



TEXAS HOMELESS EDUCATION OFFICE

The University of Texas at Austin

Charles A. Dana Center

2901 N IH 35, Room 2.200

www.utdanacenter.org/theo

Austin, TX 78722

1-800-446-3142

Local contact information:

SAMPLE LOCAL EDUCATIONAL AGENCY (LEA) POLICY

Homelessness exists in our community. A combination of high housing costs and poverty causes many families to lose their housing. Many young people leave their homes due to abuse, neglect and family conflict. Children and youth who have lost their housing live in a variety of places, including motels, shelters, shared residences, transitional housing programs, cars, campgrounds and others. Their lack of permanent housing can lead to potentially serious physical, emotional and mental consequences. This school district will ensure that all children and youth receive a free appropriate public education and are given meaningful opportunities to succeed in our schools. This district will also follow the requirements of the McKinney-Vento Act.

It is the policy of our district to view children as individuals. Therefore, this policy will not refer to children as homeless; it will instead use the term "children and youth in transition." Under federal law, children and youth in transition must have access to appropriate public education, including preschool, and be given a full opportunity to meet state and local academic achievement standards. They must be included in state- and district- wide assessments and accountability systems. Our schools will ensure that children and youth in transition are free from discrimination, segregation and harassment.

Information regarding this policy will be: distributed to all students upon enrollment and once during the school year; provided to students who seek to withdraw from school; and posted in every school in the district, as well as other places where children, youth and families in transition receive services, including family and youth shelters, soup kitchens, motels, campgrounds, drop-in centers, welfare departments, health departments and other social service agencies.

Each year, schools that have been particularly creative or pro-active in implementing this policy will be publicly recognized for the benefits they provide their students.

Definitions

Children and youth in transition means children and youth who are otherwise legally entitled to or eligible for a free public education, including preschool, and lack a fixed, regular, and adequate nighttime residence, including:

- children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, camping grounds or trailer parks due to lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- children and youth who have a primary nighttime residence that is a private or public place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- children and youth who are living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting; and
- migratory children and youth who are living in a situation described above.

A child or youth shall be considered to be in transition for as long as he or she is in a living situation described above.

Unaccompanied youth means a youth not in the physical custody of a parent or guardian, who is in transition as defined above. The more general term *youth* also includes unaccompanied youth.

Enroll and *enrollment* mean attending school and participating fully in school activities.

Immediate means without delay.

Parent means a person having legal or physical custody of a child or youth.

School of origin means the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

Liaison is the staff person designated by our LEA and each LEA in the state as the person responsible for carrying out the duties assigned to the liaison by the McKinney-Vento Act.

Identification

In collaboration with school personnel and community organizations, the liaison will identify children and youth in transition in the district, both in and out of school. The liaison will train school personnel on possible indicators of homelessness, sensitivity in identifying families and youth as in transition, and procedures for forwarding information indicating homelessness to the liaison. The liaison will also instruct school registrars and secretaries to inquire about possible homelessness upon the enrollment and withdrawal of every student, and to forward information indicating homelessness to the liaison. Community partners in identification may include: family and youth shelters, soup kitchens, motels, campgrounds, drop-in centers, welfare departments and other social service agencies, street outreach teams, faith-based organizations, truancy and attendance officers, local homeless coalitions and legal services.

The liaison will keep data on the number of children and youth in transition in the district, where they are living, their academic achievement (including performance on state- and district-wide assessments), and the reasons for any enrollment delays, interruptions in their education or school transfers.

School Selection

Each child and youth in transition has the right to remain at his or her school of origin, or to attend any school that housed students who live in the attendance area in which the child or youth is actually living are eligible to attend. Maintaining a student in his or her school of origin is important for both the student and our school district. Students who change schools have been found to have lower test scores and overall academic performance than peers who do not change schools. High mobility rates have also been shown to lower test scores for stable students. Keeping students in their schools of origin enhances their academic and social growth, while permitting our schools to benefit from the increased test scores and achievement shown to result from student continuity.

Therefore, in selecting a school, children and youth in transition shall remain at their schools of origin to the extent feasible, unless that is against the parent's or youth's wishes. Students may remain at their schools of origin the entire time they are in transition, and until the end of any academic year in which they become permanently housed. The same applies if a child or youth loses his or her housing between academic years.

Feasibility shall be a child-centered determination, based on the needs and interests of the particular student and the parent's or youth's wishes. Potential feasibility considerations include:

- Safety of the student;
- Continuity of instruction;
- Likely area of family's or youth's future housing;
- Time remaining in the academic year;
- Anticipated length of stay in temporary living situation;
- School placement of siblings; and
- Whether the student has special needs that would render the commute harmful.

Services that are required to be provided, including transportation to and from the school of origin (see below) and services under federal and other programs, shall not be considered in determining feasibility.

Enrollment

Consistent, uninterrupted education is vital for academic achievement. Due to the realities of homelessness and mobility, students in transition may not have school enrollment documents readily available. Nonetheless, the school selected for enrollment must immediately enroll any child or youth in transition. Enrollment may not be denied or delayed due to the lack of any document normally required for enrollment, including:

- Proof of residency;
- Transcripts/school records (The enrolling school must contact the student's previous school to obtain school records. Initial placement of students whose records are not immediately available can be made based on the student's age and information gathered from the student, parent and previous schools or teachers.);
- Immunizations or immunization/health/medical/physical records (If necessary, the school must refer students to the liaison to assist with obtaining immunizations and/or immunization and other medical records. Health records may often be obtained from previous schools or state registries, and school- or community-based clinics can initiate immunizations when needed.);
- Proof of guardianship;

- Birth certificate;
- Any other document requirements;
- Unpaid school fees;
- Lack of uniforms or clothing that conforms to dress codes; and
- Any factor related to the student's living situation.

Unaccompanied youth must also be immediately enrolled in school. They may either enroll themselves or be enrolled by a parent, non-parent caretaker, older sibling or liaison.

Transportation

Without appropriate transportation, a student may not be able to continue attending his or her school of origin. To avoid such forced school transfers, at a parent's request, transportation shall be provided to and from the school of origin for a child or youth in transition. Transportation shall be provided for the entire time the child or youth has a right to attend that school, as defined above, including during the pendency of disputes. The liaison shall request transportation to and from the school of origin for unaccompanied youth. The length of the commute will only be considered in determining the feasibility of placement in the school of origin based on potential harm to the student, as discussed above. Parents and unaccompanied youth must be informed of this right to transportation before they select a school for attendance.

Schools and the liaison shall use the district transportation form to process transportation requests. Requests shall be processed and transportation arranged without delay. If the student in transition is living and attending school in this district, this district shall arrange transportation. If the student in transition is living in this district but attending school in another, or attending school in this district but living in another, this district will follow the inter-district transportation agreement to determine who must arrange transportation. It is this district's policy that inter-district disputes shall not result in a student in transition missing school. If such a dispute arises, this district will arrange transportation and immediately bring the matter to the attention of the State Coordinator for the Education of Homeless Children and Youth.

In addition to receiving transportation to and from the school of origin upon request, children and youth in transition shall also be provided with other transportation services comparable to those offered to housed students.

Services

Children and youth in transition shall be provided services comparable to services offered to other students in the school selected, including:

- Transportation (as described above);
- Title I (as described below);

- Educational services for which the student meets eligibility criteria, including special education and related services and programs for English language learners;
- Vocational and technical education programs;
- Gifted and talented programs;
- School nutrition programs; and
- Before and after school programs.

The district recognizes that children and youth in transition suffer from disabilities at a disproportionate rate, yet frequently are not evaluated or provided appropriate special education and related services. To address this problem, evaluations of children and youth in transition suspected of having a disability shall be given priority and coordinated with students' prior and subsequent schools as necessary, to ensure timely completion of a full evaluation. When necessary, the district shall expeditiously designate a surrogate parent for unaccompanied youth suspected of having a disability. If a student has an Individualized Education Program (IEP), the enrolling school shall immediately implement it. Any necessary IEP meetings or re-evaluations shall then be conducted expeditiously. If complete records are not available, IEP teams must use good judgment in choosing the best course of action, balancing procedural requirements and the provision of services. In all cases, the goal will be to avoid any disruption in appropriate services.

When applying any district policy regarding tardiness or absences, any tardiness or absence related to a child's or youth's living situation shall be excused. Our school district will follow state procedures to ensure that youth in transition and youth who are out of school are identified and accorded equal access to appropriate secondary education and support services. School personnel shall refer children and youth in transition to appropriate health care services, including dental and mental health services. The liaison will assist the school in making such referrals, as necessary.

School personnel must also inform parents of all educational and related opportunities available to their children and provide parents with meaningful opportunities to participate in their children's education. All parent information required by any provision of this policy must be provided in a form, manner and language understandable to each parent.

Disputes

If a dispute arises over any issue covered in this policy, the child or youth in transition shall be immediately admitted to the school in which enrollment is sought, pending final resolution of the dispute. The student shall also have the rights of a student in transition to all appropriate educational services, transportation, free meals and Title I services while the dispute is pending.

The school where the dispute arises shall provide the parent or unaccompanied youth with a written explanation of its decision and the right to appeal and shall immediately refer the parent or youth to the liaison. The liaison shall ensure the student is enrolled in the school of his or her choice and receiving other services to which he or she is entitled and shall resolve the dispute as expeditiously as possible. The parent or unaccompanied youth shall be given every opportunity

to participate meaningfully in the resolution of the dispute. The liaison shall keep records of all disputes in order to determine whether particular issues or schools are repeatedly delaying or denying the enrollment of children and youth in transition.

The parent, unaccompanied youth or school district may appeal the liaison's decision as provided in the state's dispute resolution process.

Free meals

Hunger and poor nutrition are obvious barriers to learning. To help ensure that children and youth in transition are available for learning, the U.S. Department of Agriculture has determined that all children and youth in transition are automatically eligible for free meals. On the day a child or youth in transition enrolls in school, the enrolling school must submit the student's name to the district nutrition office for immediate processing.

Title I

Children and youth in transition are automatically eligible for Title I services, regardless of what school they attend. The trauma and instability of homelessness puts students at sufficient risk of academic regression to warrant additional support. The district shall reserve such funds as are necessary to provide services comparable to those provided to Title I students to children and youth in transition attending non-participating schools. The amount reserved shall be determined by a formula based upon the per-pupil Title I expenditure and developed jointly by the liaison and the Title I director. Reserved funds will be used to provide educationally related support services to children and youth in transition, both in school and outside of school, and to remove barriers that prevent regular attendance.

Our district's Title I plan will be coordinated with our McKinney-Vento services, through collaboration between the Title I director and the liaison. Children and youth in transition shall be assessed, reported on and included in accountability systems, as required by federal law and U.S. Department of Education regulations and guidance.

Training

The liaison will conduct training and sensitivity/awareness activities for the following LEA and school staff at least once each year: the Assistant Superintendent, principals, assistant principals, federal program administrators, registrars, school secretaries, school counselors, school social workers, bus drivers, custodians, cafeteria workers, school nurses and teachers. The trainings and activities will be designed to increase staff awareness of homelessness, facilitate immediate enrollment, ensure compliance with this policy, and increase sensitivity to children and youth in transition.

The liaison shall also obtain from every school the name and contact information of a building liaison. Building liaisons will lead and coordinate their schools' compliance with this policy and will receive training from the district liaison annually.

Coordination

The liaison shall coordinate with and seek support from the State Coordinator for the Education of Homeless Children and Youth, public and private service providers in the community, housing and placement agencies, the pupil transportation department, liaisons in neighboring districts and other organizations and agencies. Coordination will include conducting outreach and training to those agencies and participating in the local continuum of care, homeless coalition, homeless steering committee, and other relevant groups. Both public and private agencies will be encouraged to support the liaison and our schools in implementing this policy.

Preschool

Preschool education is a very important element of later academic success. Children in transition have experienced many difficulties accessing preschool opportunities. To facilitate preschool enrollment and attendance, the provisions of this policy will apply to preschools. Our district will ensure that children in transition receive priority enrollment in preschool programs operated by the district, including exempting children in transition from waiting lists.

Children in transition with disabilities will be referred for preschool services under the Individuals with Disabilities Education Act (IDEA). Children in transition under age three will be referred for at-risk services under Part C of IDEA and screened to determine if referrals for additional Part C services are appropriate. The liaison will collaborate with Head Start and Even Start programs and other preschool programs to ensure that children in transition can access those programs.

References:

The McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§11431 – 11436.

Title I, Part A of the Elementary and Secondary Education Act, 20 U.S.C. §§6311 – 6315.

The Individuals with Disabilities Education Act, 20 U.S.C. §§1400 *et seq.*

April 6, 2002 Policy of the Child Nutrition Division of the U.S. Department of Agriculture.

June 5, 1992 Policy of the Administration for Children and Families of the U.S. Department of Health and Human Services.

Add citations for additional, relevant state laws/regulations here.



Title X – Section 1032

Education of Homeless Children and Youth (HCY) Policy and Procedures Checklist

LEA

Date

Person Completing Checklist

E-mail Address

Phone Number

I = IN COMPLIANCE

O = OUT OF COMPLIANCE

DIRECTIONS

1. Review your Homeless Education Policy and procedures to ensure that all of the following requirements have been met.
 - ☐ Mark I if the item is in compliance
 - ☐ Mark O if the item is out of compliance
2. For items found out of compliance (O), complete the Cycle I Compliance Activities Worksheet by indicating:
 - ☐ the items out of compliance and how they will be addressed;
 - ☐ who will be responsible and
 - ☐ the date the items are brought into compliance.
3. Return the following to Ms. Bobbie Orlando, Monitoring Manager; Bin #32 at ADE by **December 1, 2007**:
 - ☐ this Homeless Education Policy and Procedures Checklist;
 - ☐ the completed Cycle I Compliance Activities Worksheet
 - ☐ a copy of your Homeless Education Policy and
 - ☐ A copy of your Dispute Resolution Process.

The LEA has adopted a policy that ensures:

- _____ barriers to the enrollment and retention of homeless children and youth are removed so that students are immediately enrolled in school. Such barriers include transportation, immunization, residency, birth certificates, school records, other documentation, and guardianship.
- _____ homeless children and youths are not stigmatized or segregated on the basis of their status as homeless;
- _____ transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison) to and from the school of origin.

The LEA has:

- _____ designated an appropriate staff person as an LEA liaison for homeless children and youths, to carry out the duties described in Title X, Part C, section 722, paragraph (6)(A).
- _____ created a Dispute Resolution Process to include:
 - ☐ HCY are enrolled in school of choice until dispute is settled,
 - ☐ LEA delivers a decision in writing to the family of the HCY, and
 - ☐ parents of HCY are notified of their right to appeal to the state level.
- _____ provided services to HCY including Free Breakfast and Lunch (National School Lunch Program), Title I services (even in non-Title I schools), and transportation to/from School of Origin, if feasible and in the "best interest of the student".
- _____ provided training for all levels of school personnel regarding requirements for HCY.

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The liaison for homeless students and youths ensures that:

- ☐ _____ homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;
- ☐ _____ homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of the LEA;
- ☐ _____ homeless families, children and youths receive educational services for which such families, children, and youths are eligible, including:
 - ☐ Head Start and Even Start programs
 - ☐ preschool programs administered by the LEA
 - ☐ referrals to health care services, dental services, mental health services
 - ☐ other appropriate services
- ☐ _____ the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;
- ☐ _____ public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this ACT, such as schools, family shelters, and soup kitchens;
- ☐ _____ enrollment disputes are mediated; and
- ☐ _____ the parent and guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, and is assisted in accessing transportation to the school that is selected.
- ☐ _____ Title I funds are only used to provide transportation for students no longer experiencing homelessness, but continue in their School of Origin for the remainder of the academic year.
- ☐ _____ Collect and transmit to the State Coordinator for Homeless Education, at such time and in such manner as the State Coordinator may require, a report containing such information as the State Coordinator determines is necessary to assess the educational needs of homeless children and youths within the LEA.



Arizona Coalition to End Homelessness

FACT SHEET Emancipation of minors HB 2428

HB 2428 establishes court proceedings to allow a minor who is at least sixteen years of age and meets specified criteria to emancipate.

History

29 states currently have some type of statutory procedure that allows a minor to emancipate under specific circumstances. A common requirement in these states is that the minor demonstrate to the court that he or she is either currently living independently successfully, or that he or she has the capacity to do so.

HB 2428 establishes statutory authority for a minor to emancipate provided that he or she meet certain criteria.

Provisions

Emancipation Petition

- Allows a minor to file a petition for an emancipation order with the Clerk of the Court in the county in which the minor resides provided that he or she:
 - Is at least sixteen years of age.
 - Is a resident of this state.
 - Is financially self sufficient.
 - Acknowledges he or she has read and understands the rights and obligations of an emancipated minor as well as the risks and consequences of emancipation.
 - Is not a ward of the court and is not in the physical care, custody and control of a state agency.
- Requires the petition to contain documentation that at least one of the following is the case:
 - The minor has been living on his or her own for at least three consecutive months.
 - The minor's home is not a healthy or safe environment, or the minor's parent or legal guardian has given written consent to the emancipation.

- Requires the petition to include specific facts to support the petition including the following information regarding the petitioner:
 - His or her demonstrated ability to manage his or her financial, personal and social affairs.
 - His or her ability to live wholly independent of his or her parents or guardians.
 - His or her ability to obtain or maintain health care, education, vocational training or employment.

Rights Granted Under Emancipation

- Establishes that an emancipation order recognizes the minor as an adult for the following purposes:
 - The right to enter into a binding contract.
 - The ability to sue and be sued.
 - The right to buy and sell real property.
 - The right to establish a legal residence.
 - The obligation to pay child support.
 - The right to incur debts.
 - The right to access medical treatment and records.
 - The right to consent to medical, dental and psychiatric care without parental consent, knowledge or liability.
 - The right to consent to medical, dental and psychiatric care for the emancipated minor's child.
 - Eligibility for social services.
 - The right to obtain a license to operate equipment or perform a service.
 - The right to apply for enrollment in any school or college.
 - The ability to apply for loans.
- Stipulates that an emancipation order terminates a parent or legal guardian's:
 - Right to the emancipated minor's income.
 - Future child support obligations relating to the emancipated minor.
 - Tort liability for the emancipated minor's actions.

- Obligation to financially support the emancipated minor after the first day of the month following the emancipation order.
- Obligation to provide medical support.
- Requires the state to recognize a minor as an emancipated minor if that minor can document emancipation from another jurisdiction in the United States and is at least sixteen years of age.
- Requires the Department of Transportation to issue either a non-operating identification or driver license that contains the words, "emancipated minor."

Court Requirements

- Requires the court to hold a hearing on the petition within 90 days after the date of its filing and to notify the petitioner and the petitioner's parents or legal guardian of the date and place of the hearing by certified mail at least 60 days before the hearing date.
- Allows the court to continue the initial emancipation hearing for good cause shown.
- Allows the minor to participate in the court proceedings on the minor's own behalf or be represented by an attorney chosen by the minor.
- Allows the minor's parent or legal guardian to file a written response objecting to the emancipation within 30 days of service of notice of the hearing.
- Allows the court to appoint a guardian ad litem for the petitioner.
- Allows the court to reduce or waive the fees for filing a petition due to a financial hardship.
- Allows the court to stay the proceedings before an emancipation case proceeds and:
 - Refer the parties to mediation. Requires parties to submit the signed mediation agreement to the court if agreement is reached.
 - Allows the court to require child protective services to investigate any allegations that the minor is a victim of child abuse or neglect.
- Requires the court to stay proceedings if the minor's parent or legal guardian objects to the petition for emancipation and refer the parties to mediation or alternative dispute resolution unless the court reasonably believes that mediation would not be in the best interest of the minor.
- Allows the court to consider any of the following when making this determination:
 - The parent or guardian has been convicted of abuse, neglect or abandonment.

- The parent or guardian is named as a perpetrator of abuse, neglect or abandonment in the protective services central registry.
- Any other information the court deems relevant.
- Stipulates that, if agreement is reached through mediation, the parties shall submit the signed mediation agreement to the court.
- Stipulates that the minor has the burden of proof by clear and convincing evidence.
- Requires the court to file an emancipation order with the clerk of the court and issue a copy of the order to the minor and the department of economic security or its agent, if the minor is a child in a title IV-D case.
- Stipulates that an emancipation order issued by a court is conclusive evidence that the minor is emancipated and terminates a dependency action as to the minor by operation of law.

Emancipation Administrative Costs Fund (EACF)

- Requires each County Treasurer to establish an Emancipation Administrative Costs Fund (EACF.)
- Requires the clerk of the juvenile court to charge and collect a \$46 filing fee for a petition for emancipation of a minor. Requires the clerk to transmit the monies monthly to the EACF.
- Requires the Presiding Judge of the Juvenile Court to use EACF monies for administrative costs associated with emancipation proceedings.
- Requires the County Treasurer, upon notice of the Presiding Judge, to invest monies in the fund and monies earned from investment to be credited to the EACF.
- Requires the County Treasurer to submit a report to the presiding judge that shows the amount of monies in the EACF on or before November 15 of each year.
- Requires the Administrative Office of the Courts (AOC), beginning October 1, 2005, to collect information relating to emancipation of minors including the number of petitions filed by age and county of residence and the number of petitions granted by age and county of residence.
- Requires the information the AOC collects to be included in the annual report of the judicial department.
- Creates a piece of session law that requires the AOC, between October 1, 2005 and September 30, 2007, to collect and report the number and percentage of petitions granted by statutory categories in the judicial department annual report.

Source: <http://www.ag.state.az.us/opinions/2004.html>
AG I 04-010

who knows of an employee's failure to report and fails to direct the employee to report is guilty of a class 2 misdemeanor. *Id.* In addition to the criminal penalties, the Proposition permits any person to bring a civil action against a state agency or political subdivision to remedy violations. A.R.S. § 46-140.01(C). The Proposition must be enforced "without regard to race, religion, gender, ethnicity or national origin." *Id.*

B. Related Federal Requirements.

The Proposition's "findings and declarations" focus on the problem of illegal immigration. Prop. 200, § 2. The Supreme Court has recognized that the "[p]ower to regulate immigration is unquestionably exclusively a federal power." *DeCanas v. Baca*, 424 U.S. 351, 354 (1976). Although states may enact some legislation that is related to the problem of illegal immigration, there are limits to what they can do. *Id.* For example, it is well established that states cannot exclude children who are undocumented immigrants from public schools, *Plyler v. Doe*, 457 U.S. 202 (1982), and Proposition 200 does not attempt to do so.¹

Because of the dominant role of federal law in the immigration area, it is important to consider related federal legislation when implementing Proposition 200. The legislation most directly relevant to Proposition 200 is the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a major piece of welfare reform legislation enacted in 1996. PRWORA, Pub. L. No. 104-193, 110 Stat. 2105 (codified in part in U.S.C., Titles 5, 7, 8, 21, 25, 42) (hereinafter referred to as "Federal Welfare Reform Act"). This federal legislation restricted eligibility for federal, state, and local benefits based on immigration status.

¹ Although *DeCanas* was a preemption case and *Plyler* was an equal protection case, both discuss limitations on state authority to enact legislation relating to undocumented immigrants.

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, member of the clergy, priest or christian science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.
2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.

2. "Child abuse" means child abuse pursuant to section 13-3623.

3. "Neglect" has the same meaning prescribed in section 8-201.

4. "Reportable offense" means any of the following:

(a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.

(b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.

(c) Child prostitution pursuant to section 13-3212.

(d) Incest pursuant to section 13-3608.

Locate @ : <http://www.azleg.state.az.us/ars/13/03620.htm>



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Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339.

Or you may contact us at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920

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